

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## ASSEMBLY BILL

**No. 1916**

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**Introduced by Assembly Member Buchanan**

February 22, 2012

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*An act to amend Section 21091 of the Public Resources Code, relating to environmental quality. An act to add Section 5080.36.2 to the Public Resources Code, relating to state parks.*

### LEGISLATIVE COUNSEL'S DIGEST

AB 1916, as amended, Buchanan. ~~CEQA: environmental impact reports.~~ *State parks: operating agreements: Mt. Diablo State Park.*

*Existing law vests with the Department of Parks and Recreation control of the state park system. Existing law authorizes the department to enter into an agreement with an agency of the United States, including a city, county, district, or other public agency, or any combination thereof, for the care, maintenance, administration, and control of lands of the state park system.*

*This bill would authorize the department to enter into an operating agreement with Save Mount Diablo (SMD), a nonprofit organization, for the restoration of the beacon on top of the Summit Building in Mount Diablo State Park, and would require that the agreement comply with specified requirements.*

~~The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment, or to adopt a negative declaration if it finds that the project will not have that effect. The CEQA also requires a lead~~

agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. The CEQA prescribes certain requirements for the review of draft EIRs, as specified.

~~This bill would make various technical, nonsubstantive changes in those provisions relating to the requirements for the review of draft EIRs.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. The Legislature finds and declares all of the*  
2     *following:*

3     *(a) The California state park system was created for the*  
4     *purposes of preserving outstanding natural, scenic, and cultural*  
5     *values, including the historic significance of units of the state park*  
6     *system.*

7     *(b) Mt. Diablo State Park is one of the oldest parks in the state*  
8     *park system. The park was created by legislation and dedicated*  
9     *in 1921, and rededicated again in 1931, at the time the park's first*  
10    *parcels of land were acquired.*

11    *(c) The annual budget for the state park system, as a whole, has*  
12    *been inadequate to maintain the existing units of the system, and*  
13    *the ongoing shortfall has caused a backlog of deferred maintenance*  
14    *at the parks.*

15    *(d) The "Eye of Diablo" Beacon sits atop Mount Diablo. It was*  
16    *originally installed in 1928 by Standard Oil of California on a*  
17    *steel tower, approximately 75 feet west of its current location. The*  
18    *"Eye of Diablo" Beacon was originally intended to serve as an*  
19    *aid to aerial navigation. Using a remote switch from Denver,*  
20    *Colorado, Colonel Charles Lindbergh simultaneously lit the "Eye*  
21    *of Diablo" Beacon and a similar beacon located near Los Angeles*  
22    *on October 14, 1928.*

23    *(e) The Visitor's Center Building at Mt. Diablo State Park was*  
24    *constructed from 1939 to 1942, inclusive, by the Diablo*  
25    *Conservation Corps, a part of the Civilian Conservation Corps.*  
26    *The building was designed specifically to accommodate the beacon*

atop the tower of the building, and the beacon was relocated to that location. The beacon was turned off on December 8, 1941, on the day after the attack on Pearl Harbor, in observance of the West Coast blackout and in recognition of the fear of Japan's attack on the United States coast. In 1964, a group of local engineers restored the beacon to operating condition, and on December 7, 1964, Admiral Chester W. Nimitz pressed the switch to relight the beacon to commemorate the survivors of the bombing of Pearl Harbor. The beacon is only lighted on December 7th (Pearl Harbor Day) for this purpose.

(f) In 1971, Save Mount Diablo (SMD) was incorporated as a nonprofit 501(c) organization, dedicated to preserving Mount Diablo's peaks, and the surrounding foothills and watersheds, through land acquisition and preservation strategies designed to protect the mountain's natural beauty, biological diversity, and historic and agricultural heritage, to enhance the area's quality of life, and to provide recreational opportunities consistent with protection of natural resources.

(g) Save Mount Diablo is a cosponsor for the annual lighting of the beacon each Pearl Harbor Day.

(h) The annual lighting of the Mount Diablo Beacon is an important reminder of a significant time in our history, and should be restored and kept operational.

SEC. 2. Section 5080.36.2 is added to the Public Resources Code, to read:

5080.36.2. Notwithstanding any other provision of this article, the department may enter into an operating agreement with Save Mount Diablo (SMD), a nonprofit organization, for the restoration of the Mount Diablo Beacon on top of the Summit Building in Mount Diablo State Park. The agreement shall include, but is not limited to, all of the following:

(a) The Diablo Vista District Superintendent for the department shall provide or appoint a person to liaison with the department, the SMD, and the public.

(b) The operating agreement shall follow the United States Secretary of the Interior's Standards for the Treatment of Historic Properties guidelines and the guidelines set forth by the American Institute for Conservation of Historic and Artistic Works. The operating agreement shall also comply with any applicable code of ethics or Guidelines for Practice governing the rehabilitation

1 *and preservation of historical sites and buildings. All plans for*  
2 *the work, the work in process, and the finished work shall be*  
3 *audited by a conservator company pursuant to a contract with the*  
4 *company.*

5 *(c) Save Mount Diablo shall submit a draft of the operating*  
6 *agreement to the Diablo Vista District Superintendent for comment,*  
7 *amendment, and approval. Representatives of both the department*  
8 *and SMD shall be signatories to the agreement.*

9 *(4) All costs of the restoration of the Mount Diablo Beacon shall*  
10 *be incurred under the authority of, and be the responsibility of,*  
11 *SMD.*

12 ~~SECTION 1. Section 21091 of the Public Resources Code is~~  
13 ~~amended to read:~~

14 ~~21091. (a) The public review period for a draft environmental~~  
15 ~~impact report shall not be less than 30 days. If the draft~~  
16 ~~environmental impact report is submitted to the State Clearinghouse~~  
17 ~~for review, the review period shall be at least 45 days, and the lead~~  
18 ~~agency shall provide a sufficient number of copies of the document~~  
19 ~~to the State Clearinghouse for review and comment by state~~  
20 ~~agencies.~~

21 ~~(b) The public review period for a proposed negative declaration~~  
22 ~~or proposed mitigated negative declaration shall not be less than~~  
23 ~~20 days. If the proposed negative declaration or proposed mitigated~~  
24 ~~negative declaration is submitted to the State Clearinghouse for~~  
25 ~~review, the review period shall be at least 30 days, and the lead~~  
26 ~~agency shall provide a sufficient number of copies of the document~~  
27 ~~to the State Clearinghouse for review and comment by state~~  
28 ~~agencies.~~

29 ~~(c) (1) Notwithstanding subdivisions (a) and (b), if a draft~~  
30 ~~environmental impact report, proposed negative declaration, or~~  
31 ~~proposed mitigated negative declaration is submitted to the State~~  
32 ~~Clearinghouse for review and the period of review by the State~~  
33 ~~Clearinghouse is longer than the public review period established~~  
34 ~~pursuant to subdivision (a) or (b), whichever is applicable, the~~  
35 ~~public review period shall be at least as long as the period of review~~  
36 ~~and comment by state agencies as established by the State~~  
37 ~~Clearinghouse.~~

38 ~~(2) The public review period and the state agency review period~~  
39 ~~may, but are not required to, begin and end at the same time. Day~~

1 ~~one of the state agency review period shall be the date that the~~  
2 ~~State Clearinghouse distributes the document to state agencies.~~

3 ~~(3) If the submittal of a CEQA document is determined by the~~  
4 ~~State Clearinghouse to be complete, the State Clearinghouse shall~~  
5 ~~distribute the document within three working days from the date~~  
6 ~~of receipt. The State Clearinghouse shall specify the information~~  
7 ~~that will be required in order to determine the completeness of the~~  
8 ~~submittal of a CEQA document.~~

9 ~~(d) (1) The lead agency shall consider comments it receives on~~  
10 ~~a draft environmental impact report, proposed negative declaration,~~  
11 ~~or proposed mitigated negative declaration if those comments are~~  
12 ~~received within the public review period.~~

13 ~~(2) (A) With regard to the consideration of comments received~~  
14 ~~on a draft environmental impact report, the lead agency shall~~  
15 ~~evaluate comments on environmental issues that are received from~~  
16 ~~persons who have reviewed the draft and shall prepare a written~~  
17 ~~response pursuant to subparagraph (B). The lead agency may also~~  
18 ~~respond to comments that are received after the close of the public~~  
19 ~~review period.~~

20 ~~(B) The written response shall describe the disposition of each~~  
21 ~~significant environmental issue that is raised by commenters. The~~  
22 ~~responses shall be prepared consistent with Section 15088 of Title~~  
23 ~~14 of the California Code of Regulations, as those regulations~~  
24 ~~existed on June 1, 1993.~~

25 ~~(3) (A) With regard to the consideration of comments received~~  
26 ~~on a draft environmental impact report, proposed negative~~  
27 ~~declaration, proposed mitigated negative declaration, or notice~~  
28 ~~pursuant to Section 21080.4, the lead agency shall accept comments~~  
29 ~~via e-mail and shall treat e-mail comments as equivalent to written~~  
30 ~~comments.~~

31 ~~(B) Any law or regulation relating to written comments received~~  
32 ~~on a draft environmental impact report, proposed negative~~  
33 ~~declaration, proposed mitigated negative declaration, or notice~~  
34 ~~received pursuant to Section 21080.4, shall also apply to e-mail~~  
35 ~~comments received for those reasons.~~

36 ~~(e) (1) Criteria for shorter review periods by the State~~  
37 ~~Clearinghouse for documents that are required to be submitted to~~  
38 ~~the State Clearinghouse shall be set forth in the written guidelines~~  
39 ~~issued by the Office of Planning and Research and made available~~  
40 ~~to the public.~~

1     ~~(2) Those shortened review periods shall not be less than 30~~  
2     ~~days for a draft environmental impact report and 20 days for a~~  
3     ~~negative declaration.~~

4     ~~(3) A request for a shortened review period shall only be made~~  
5     ~~in writing by the decisionmaking body of the lead agency to the~~  
6     ~~Office of Planning and Research. The decisionmaking body may~~  
7     ~~designate by resolution or ordinance a person authorized to request~~  
8     ~~a shortened review period. A designated person shall notify the~~  
9     ~~decisionmaking body of this request.~~

10    ~~(4) A request approved by the State Clearinghouse shall be~~  
11    ~~consistent with the criteria set forth in the written guidelines of~~  
12    ~~the Office of Planning and Research.~~

13    ~~(5) A shortened review period shall not be approved by the~~  
14    ~~Office of Planning and Research for a proposed project of~~  
15    ~~statewide, regional, or areawide environmental significance as~~  
16    ~~determined pursuant to Section 21083.~~

17    ~~(6) An approval of a shortened review period shall be given~~  
18    ~~prior to, and reflected in, the public notice required pursuant to~~  
19    ~~Section 21092.~~

20    ~~(f) Prior to carrying out or approving a project for which a~~  
21    ~~negative declaration has been adopted, the lead agency shall~~  
22    ~~consider the negative declaration together with comments that~~  
23    ~~were received and considered pursuant to paragraph (1) of~~  
24    ~~subdivision (d).~~